



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 21, 1998

Mr. David L. Hay
Dallas County Community College District
RL. Thornton, Jr. Building
701 Elm Street
Dallas, Texas 75202-3299

OR98-2251

Dear Mr. Hay:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your requests were assigned ID# 119134 and ID# 119221.

The Dallas County Community College District (the "district") received numerous requests for several categories of information, including information relating to district employees' attendance at a certain function, information concerning travel requests, the budget, expense reports, and information concerning William Wenrich. You have released most of the requested information. You claim that the employees' credit card numbers and airline frequent flyer account numbers are financial information excepted from disclosure by sections 552.101 and 552.102 of the Government Code. By letters dated August 11 and 13, 1998, the requestor informed this office that he does not want the credit card numbers. Based upon the requestor's representation to this office, we will not address whether the credit card numbers are excepted from public disclosure in this ruling. We have considered the arguments that you raise and have reviewed the submitted representative sample of information.¹

Section 552.102 excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). In *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.), the court ruled that the test to be applied to information claimed to be protected under section 552.102 is the same as the test formulated by the Texas Supreme Court in *Industrial Foundation* for information claimed to be protected under the doctrine of common-law privacy as incorporated by section 552.101 of the

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Government Code.² *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy excepts from disclosure private facts about an individual. *Id.* Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992).

This office has found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps), and personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990), and information concerning the intimate relations between individuals and their family members, *see* Open Records Decision No. 470 (1987). We agree that the airline frequent flyer account numbers must be withheld by a right of privacy under section 552.101.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

Open Records Division
Office of the Attorney General

Ref: ID# 119134 and ID# 119221

Enclosures: Submitted documents

cc: Mr. Philip G. Thomas
6431 Preston Crest
Dallas, Texas 75230
(w/o enclosures)

²Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."